

**EXHIBIT D**  
**TO DECLARATION OF MICHAEL N. EDELMAN**  
**IN SUPPORT OF PLAINTIFF ADVANCEME, INC.'S**  
**MOTION FOR SANCTIONS**  
**AGAINST DEFENDANT FIRST FUNDS, LLC**

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**From:** Edelman, Michael N.  
**Sent:** Wednesday, July 25, 2007 1:47 PM  
**To:** 'Gray, Joseph'  
**Cc:** 'Deborah Race'; Williams, Shanee; Lemieux, Ronald (Ron) S.; Matz, Robert  
**Subject:** AmeriMerchant

Joey:

This email concerns several issues relating to the AmeriMerchant matter.

First, I wanted to confirm the parties' agreement that AdvanceMe would be permitted to serve deposition notices and/or subpoenas seeking production of documents after today, despite the fact that this would leave less than 30 days between service of this discovery and the current August 24 cut-off date. Though our reading of the Federal Rules does not indicate that 30 days notice is necessarily required in this instance, we appreciate your confirmation in this regard so that there is no need to serve all remaining subpoenas in the case today. We intend to serve the remaining deposition notices and subpoenas within the next week.

Second, AdvanceMe has requested an additional extension of time for depositions to be completed in this case. We understand Defendants have not yet provided a final response to this request. As we informed you previously, many members of our team (including Mr. Lemieux and myself) will be out of the office for substantial periods of time in August. Further, since we have not yet received any further documents from First Funds in compliance with the July 2 Order, we expect there would be great difficulty in reviewing all of these documents and completing all of the remaining depositions before August 24. Accordingly, we request that AdvanceMe be permitted until the middle of September to complete depositions in the case. Please let us know as soon as possible whether this is acceptable.

Third, we understand that there has been discussion between Deborah and Matt over the hour limits set forth in the Discovery Order. Our reading of the order indicates that AdvanceMe is permitted 70 hours of third party depositions, with no limit placed on party depositions. AdvanceMe has only noticed a few third party depositions in the AmeriMerchant case to date, and its questioning in those depositions has been relatively brief, such that AdvanceMe still has in excess of 60 hours of deposition time remaining. AdvanceMe anticipates that virtually all of this deposition time will be needed in order to complete the remaining third party depositions.

Fourth, pursuant to the Court's July 2, 2007 Order, we will be preparing a proposed amended Docket Control Order for your review. We will provide you with a draft as soon as possible.

Lastly, though this will be the subject of separate correspondence as well, we wanted to express concern over the state of First Funds' document production. As you know, the Court ordered First Funds to conduct another review of its documents and produce all documents responsive to the approximately 80 different document categories that AdvanceMe previously identified. We have not received any of these additional documents. It is frankly impossible for us to prepare for the remaining depositions in this case (or even reach a final conclusion on the identity of all the remaining deponents) until we receive these documents. Please ensure that all documents required by the Court's order are produced no later than the end of this week.

Thanks,

Mike